IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 513 of 2006

Promod Khanna S/o Late Om Prakash
R/o 158/56 Kochar Coloney Jakhan
Rajpur, P.S. Rajpur, Dehradun
District Dehradun .... Applicant

Vs

1. State of Uttaranchal
2. Smt. Madhu Khanna alleged W/o Promod Khanna
   R/o 158/26 Kochar Coloney Jakhan
   District Dehradun
   Service through S.S.P. Dehradun .... Opp. Parties

Sri Arvind Vashisth, learned counsel for the applicant
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition under Section482 Cr.P.C. has been filed by the applicant against whom the chargesheet under Sections 307, 343, 376, 385 I.P.C. has been filed by the police before the court. The petitioner has thus prayed for quashing the proceedings of Criminal Case No. 861 of 205 pending against him in the court of Judicial Magistrate, Dehradun.

2. Brief facts of the case are that the respondent No. 2 has lodged the First Information Report against the applicant on 01.03.2005 for the offences stated above. The police investigated the matter and after completing the investigation submitted the chargesheet against the petitioner under Sections 307, 343, 376, 385 I.P.C. on 23.04.2005.

3. After submission of the chargesheet the cognizance was taken by the Judicial Magistrate, Dehradun on 28.06.2005. The petitioner has thus challenged the order

dated 28.06.2005 by which the cognizance was taken by the court of Judicial Magistrate against him. The petitioner has at the same time challenged the chargesheet submitted against him by the police under the offences stated above.

4. Heard Sri Arvind Vashisth, learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

5. After having considered the arguments advanced by the learned counsel for the petitioner, I do not find any abuse of process of court in this case. While exercising the jurisdiction under Section 482 Cr.P.C., it will not be justified for me to enter into the question of fact by appreciating the documents produced before me by treating them as evidence to hold the petitioner as innocent, because it will amount to pre-trial of a criminal case under the inherent power of the court. I am not supposed to act as a trial judge in order to assess the evidence adduced before me, as the evidence, is still incomplete and hazy and pre-judging any documents prepared by the police and having found discrepancies therein and thereafter quashing the pending criminal case would certainly be improper on my part. The allegations in the First Information Report and material collected during the investigation are referred in the chargesheet.

6. At this stage, the prima facie case makes out an offence and in my opinion it will not be proper on my part to quash the criminal proceedings by appreciating the evidence.

7. Therefore, the petition lacks merit and is liable to be dismissed.

8. Accordingly, the petition is dismissed.

However, in case, if the petitioner appears before the court below for obtaining the bail, his bail shall be decided expeditiously.

(B.C. Kandpal, J.)

18.07.2006
ASWAL